

CALIFORNIA COASTAL COMMISSION

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Th6b

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STAFF REPORT: APPEAL SUBSTANTIAL ISSUE DETERMINATION

Local government: San Luis Obispo County

Local decision: Approved with conditions (see Exhibit A)

Appeal number: A-3-SLO-00-156

Applicant: Dave and Jan Crowther

Appellants: California Coastal Commission,
Commissioners Sara Wan & Dave Potter

Project location: 8525 Van Gordon Creek Road, Cambria, San Luis Obispo
County. (APN 022-061-007, -009, & -011) (see Exhibits B & C).

Project description: Allow conversion of an existing single-family residence to a 5-
unit bed-and-breakfast.

Substantive file documents: County local permit file D000010P; San Luis Obispo County
Certified Local Coastal Program.

Recommendation: Substantial Issue

Summary: Applicant wishes to convert a single family home on a 150-acre site, zoned Agricultural Land, to a 5-unit bed and breakfast. The current land use is an avocado farm, which is to remain the primary use supplemented by the income from the bed and breakfast. The project does not require expansion of the structure, except to provide handicapped access ramps and enlarged doorways. The project has been approved with special conditions by SLO County.

The standard of review is the San Luis County Obispo Local Coastal Program, which allows for the establishment of a bed-and-breakfast in an existing single-family dwelling that has been determined to be of historical or architectural interest, or on Agricultural land, where there is an existing visitor-serving facility. The LCP also requires that such a use be economically necessary.

The appellants contend that the necessary findings have not been made, and that in this case conversion of a single family residence to a bed-and-breakfast on Agricultural land is not allowed, nor has it been



California Coastal Commission
March 2002 Meeting in Monterey

Staff: Jonathan Bishop Approved by:

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deemed necessary as required by the San Luis Obispo County certified LCP.

An analysis of their contentions reveals deficiencies in the content of the County findings. The County of San Luis Obispo does not make any requisite findings indicating that this existing SFD has either been deemed historical or of architectural interest, or that an existing conforming visitor-serving facility is located on the site. Nor has the supplemental use been analyzed or deemed economically necessary, as required by the LCP. Finally, even if the conversion was allowed, the required agricultural easements have not been recorded to protect remaining Agricultural lands. Thus, the proposed use may not be allowed or necessary on this site. **Therefore, staff recommends that the Commission find that a substantial issue is raised by the appellants' contentions.**

If the Commission finds substantial issue, it will have to act on this application *de novo* at a future meeting to ensure that there is consistency with the Local Coastal Program. In addition, in such an event, the applicant has requested additional time to address the various issues raised by the appeal.

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I. Local Government Action

San Luis Obispo County approved a coastal development permit to allow the re-classification of an existing 6,000 square foot, single-family residence as a 5-unit bed and breakfast, on a 150-acre site zoned Agriculture. The project was approved by the Zoning Administrator, on November 3, 2000, subject to 8 conditions. (See Exhibit A for detail). The County also approved a Negative Declaration (of no significant environmental impacts) under the California Environmental Quality Act.

II. Summary of Appellants' Contentions

The appellants, Commissioners Wan and Potter, have appealed the final action taken by the County Zoning Administrator on the basis that approval of the project is inconsistent with policies of the San Luis Obispo County Local Coastal Program regarding bed-and breakfast facilities and supplemental non-agricultural uses in the Agriculture Land Use Category. The complete text of the appellants' contentions is cited in the findings and attached as Exhibit F.

III. Standard of Review for Appeals

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because it is not designated as the principal permitted use under the zoning ordinance or zoning district map.

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified local coastal program or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a *de novo* coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under section 30604(b), if the Commission conducts a *de novo* hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program in order to approve a coastal development permit for the project. Section 30604(c) also requires an additional specific finding that the development is in conformity with



the public access and recreation policies of Chapter Three of the Coastal Act, if the project is located between the first public road and the sea, which is not the case with this project.

IV. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that **a substantial issue** exists with respect to some of the grounds on which the appeals were filed pursuant to Coastal Act Section 30603.

MOTION: Staff recommends a “NO” vote on the following motion:

“I move that the Commission determine that Appeal No. A-3-SLO-00-156 raises **no** substantial issue with respect to the grounds on which the appeal has been filed.”

A majority of the Commissioners present is required to pass the motion. Failure of the motion, as recommended by staff, will result in Commission jurisdiction over the project, a de novo hearing on the application, and adoption of the following resolution and findings.

RESOLUTION TO ADOPT SUBSTANTIAL ISSUE:

The Commission hereby finds that Appeal No. A-3-SLO-00-156 presents a substantial issue with respect to some of the grounds on which the appeal has been filed under § 30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program and/or the public access and recreation policies of the Coastal Act.

V. Recommended Findings and Declarations

The Commission finds and declares as follows:

A. Project Description

1. Project Location

The project is to be located on the northwest side of Van Gordon Creek Road, approximately 1 mile north of San Simeon Creek Road, north of the community of Cambria (see Exhibits B, C & D). Cambria is an unincorporated community in the North Coast planning area of San Luis Obispo County, straddling Highway One. Highway One runs just west of and roughly perpendicular to Van Gordon Creek Road in the vicinity of the site. On the south side of the site is Van Gordon Creek, which flows west meeting the coast at San Simeon Beach State Park.

The site consists of one parcel totaling 150 acres in size, located east of Highway One. The property is



currently used for livestock grazing, has approximately 24 acres of avocado orchards, and a single-family residence and barn. Vegetation on the property consists mostly of grassland with an avocado orchard and some landscaping surrounding the existing residence. The site is designated for Agriculture Use in the San Luis Obispo certified Local Coastal Program. Combining designations include Streams and Riparian Vegetation, and Geologic Study Area.

2. Project Description

The proposed project entails the conversion of an owner's 6,000 square foot residence to a bed-and-breakfast (B&B) with 5 guest units and is located on a 150-acre parcel. The proposed project will result in no additional disturbance, except for the addition of an 18-foot entrance ramp built to ADA specifications. The proposed project also includes the enlargement of an existing interior doorway on the ground floor. The doorway will be widened 2 inches to conform to ADA specifications.

The proposed elevation and floor plans are attached as Exhibit E. Of the 5 rooms designated for guest use, four are upstairs and one is on the ground floor. Within the fenced and landscaped area immediately surrounding the residence, there is parking for at least 12 cars. 10 parking spaces are located near the front door, one of which is sized to ADA specifications.

B. Substantial Issue Determination

The appellants' contentions can be grouped into two issues: (1) Bed and breakfast special use standards; and (2) Supplementary non-agriculture uses, which are discussed in the following two findings.

1. Bed and Breakfast Special Use Standards

a. Appellants' Contentions

With regard to the bed and breakfast special use standards, the appellants contend in full:

⇒ *Coastal Zone Land Use Ordinance Section (CZLUO) 23.08.261 allows for the establishment of a bed and breakfast "only in an existing single-family dwelling that has been determined by the Review Authority to be of historical or architectural interest except: where the bed and breakfast is located on a site in the Agriculture... category with an existing conforming visitor-serving facility." It is not clear from the findings made by the County of San Luis Obispo that this existing structure has either been deemed historical or of architectural interest, or that an existing conforming visitor-serving facility is located on the site. Thus, the proposed use may not be allowed on this site.*

b. Relevant LCP Provisions

The following are the relevant governing provisions from the San Luis Obispo Local Coastal Program *Coastal Zone Land Use Ordinance*:



Section 23.08.261: Bed and Breakfast Facilities: *The following standards apply to bed and breakfast facilities located in other than the recreation, office and professional and commercial land use categories...The provisions of this section do not apply to the rental of bedrooms in a residence to the same tenant(s) for longer than seven days...*

(a) Limitations on use.

(1) *A bed and breakfast shall be established only in an existing single-family dwelling that has been determined by the Review Authority to be of historical or architectural interest except: where the bed and breakfast is located on a site in the Agriculture, Rural Lands, and Residential Rural categories with an existing conforming visitor-serving facility (e.g., winery, riding stables, health resorts), it may be established in one structure, with an exterior design style that is residential or agricultural in appearance, built expressly for a bed and breakfast facility where such facility is approved with a Minor Use Permit.*

c. Analysis

In order to approve the conversion of an existing home to bed-and-breakfast (B&B) use in the Agriculture land use category, findings must be made 1) that the home proposed for conversion is of historical or architectural significance, or there is already an existing conforming visitor-serving use on the site; and 2) the visitor-serving use is necessary to support continued agriculture.

The appellants' contentions raise valid concerns. The site is located in an agricultural area, where the current use is avocado farming. A B&B is considered a supplemental non-agricultural use in Agricultural lands under the certified LCP. In this case, specific Special Use standards must be met, in order to allow for the proposed conversion

Although the County made the requisite findings to approve the project, close scrutiny reveals that the findings are inadequate. First, the County finds that the proposed bed-and-breakfast use is allowable in the Agriculture Use category. However, Section 23.08.261.a.1 requires a specific finding that the existing single-family dwelling proposed for conversion to the B&B use has been determined to be of historical or architectural significance by the Review Authority. The adopted findings do not indicate whether this existing structure has been deemed historical or of architectural interest. One might assume that it is not of particular historical interest because the residence is a relatively new structure. The County, though, did not make findings concerning the architectural interest of the structure.

Second, the County does not consider whether there was an existing visitor-serving use on the site. Under Section 23.08.261.a.1 an existing conforming visitor-serving facility must be onsite already in order to allow this type of conversion if the finding regarding "historical or architectural interest" cannot be made. To the contrary, the County makes no findings that an existing visitor-serving facility exists on the property. Site plans for this project reflect that only the existing single-family residence, avocado orchards, and a barn currently exist on this project site.

In conclusion, the County findings do not justify the reclassification of the existing single-family



residence to a B&B as required by Section 23.08.261. The ordinance cited above provides the standard for new development proposed within agricultural areas in the coastal zone of San Luis Obispo County. Typically these LCP provisions would be analyzed and addressed in the course of the County's coastal development permit deliberations. In the most recent County action, which is the subject of this appeal, the coastal development permit process was not followed and therefore none of the relevant Bed and Breakfast Special Use standards were considered. Commission staff has found no information to date to indicate that the conversion of the residence to a B&B is allowed. The County's failure to perform the analysis needed to determine if the project was consistent with the Bed and Breakfast standards cited above represents a substantial issue regarding consistency with the certified LCP. Therefore, a substantial issue is raised by the appellants' contentions.

2. Supplementary Non-agricultural Uses

a. Appellants' Contentions

With regard to supplementary non-agricultural uses the appellants contend in full:

- ⇒ CZLUO Section 23.04.050b and Policy 3 for Agriculture require that specific findings be made and development standards be satisfied before a supplemental non-agricultural use is approved in the Agriculture Land Use Category. Examples of such findings and standards are 1) that continued or renewed agricultural use is not feasible as determined through economic studies..., 2) that the primary use of the site shall be the continuing, renewed or expanded production of food and fiber, and 3) the proposed supplemental use shall support, not interfere with, and be economically necessary to the primary use of the site as a productive agricultural unit. The County's findings of approval do not indicate that such requirements have been met, and thus, the proposed use may not be allowed on this site.
- ⇒ Additionally, CZLUO Section 23.04.050b(7) and Policy 3 for Agriculture also require that any non-agricultural development proposed to supplement an agricultural use shall be conditioned to require the applicant to grant an agricultural easement to the county over all agricultural land and an open space easement over all lands unsuitable for agriculture (if applicable), in order to insure that the remainder of the parcel is retained in agriculture. The County's approval of this non-agricultural development did not have such conditions of approval, and thus, is inconsistent with these requirements of the Local Coastal Program.

b. Relevant LCP Provisions

The following policies from San Luis Obispo County's *Coastal Plan Policies* govern:

Agriculture Policy 3: *In agriculturally designated areas, all non-agricultural development which is proposed to supplement the agricultural use permitted in areas designated as agriculture shall be compatible with preserving a maximum amount of agricultural use. When continued agricultural use is not feasible without some supplemental use, priority shall be given to commercial recreation and low intensity visitor-serving uses allowed in Policy 1.*



Non-agricultural developments shall meet the following requirements:

- a. No development is permitted on prime agricultural land. Development shall be permitted on non-prime land if it can be demonstrated that all agriculturally unsuitable land on the parcel has been developed or has been determined to be undevelopable.*
- b. Continued or renewed agricultural use is not feasible as determined through economic studies of existing and potential agricultural use without the proposed supplemental use.*
- c. The proposed use will allow for and support the continued use of the site as a productive agricultural unit and would preserve all prime agricultural lands.*
- d. The proposed use will result in no adverse effect upon the continuance or establishment of agricultural uses on the remainder of the site or nearby and surrounding properties.*
- e. Clearly defined buffer areas are provided between agricultural and non-agricultural uses.*
- f. Adequate water resources are available to maintain habitat values and serve both the proposed development and existing and proposed agricultural operations.*
- g. Permitted development shall provide water and sanitary facilities on-site and no extension of urban sewer and water services shall be permitted, other than reclaimed water for agricultural enhancement.*
- h. The development proposal does not require a land division and includes a means of securing the remainder of the parcel(s) in agricultural use through agricultural easements. As a condition of approval of non-agricultural development, the county shall require the applicant to assure that the remainder of the parcel(s) be retained in agriculture and, if appropriate, open space use by the following methods:*

Agricultural Easement. *The applicant shall grant an easement to the county over all agricultural land shown on the site plan. This easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land covered by the easement to agriculture, non-residential use customarily accessory to agriculture, farm labor housing and a single-family home accessory to the agricultural use.*

Open Space Easement. *The applicant shall grant an open space easement to the county over all lands shown on the site plans as land unsuitable for agriculture, not a part of the approved development or determined to be undevelopable. The open space easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land to non-structural, open space uses.*

Development proposals shall include the following:

- a. A site plan for the ultimate development of the parcel(s) which indicates types, location, and*



if appropriate, phases of all non-agricultural land and all land to be used for agricultural purposes. Total non-agricultural development area must not exceed 2% of the gross acreage of the parcel(s).

- b. A demonstration that revenues to local government shall be equal to the public costs of providing necessary roads, water, sewers, fire and police protection.*
- c. A demonstration that the proposed development is sited and designed to protect habitat values and will be compatible with the scenic, rural character of the area.*
- d. Proposed development between the first public road and the sea shall clearly indicate the provisions for public access to and along the shoreline consistent with LUP policies for access in agricultural areas.*

[THIS POLICY SHALL BE IMPLEMENTED PURSUANT TO SECTION 23.04.050 OF THE CZLUO.]

Section 23.04.050b(6)(iii): Priority for agricultural uses.

The primary use of the site shall be the continuing, renewed or expanded production of food and fiber. The proposed supplemental use shall support, not interfere with, and be economically necessary to the primary use of the site as a productive agricultural unit.

Section 23.04.050b(7): Guarantee of continuing agricultural or open space use.

As a condition of approval of a supplemental non-agricultural use, the applicant shall insure that the remainder of the parcel(s) be retained in agriculture, and if appropriate, open space use by the following methods:

- (i) **Agricultural Easement.** The applicant shall grant an easement to the county over all agricultural land shown on the site plan. Such easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land covered by the easement to agriculture, farm labor housing, and a single-family dwelling accessory to the agricultural use.*
- (ii) **Open Space Easement.** The applicant shall grant an open space easement to the county over all lands shown on the site plan as land unsuitable for agriculture, not a part of the approved development or determined to be undevelopable. The open space easement shall remain in effect for the life of the non-agricultural use and shall limit the use of the land to non-structural, open space uses.*
- (iii) **Procedures for agricultural or open space easements.** Any easement required by this section shall be reviewed as set forth in Section 23.04.420g(4) of this title.*



c. Analysis

Defining Supplemental and Other Uses

The San Luis Obispo County LCP defines Supplemental and Other Uses as follows:

Uses allowed by Coastal Table "O" in the Agriculture category that are not directly related to the principal agricultural use on the site. (Example: where crop production or grazing are the principal agricultural use of a parcel, petroleum extraction, mining or rural sports and group facilities may be allowed as supplemental non-agricultural uses consistent with this section.)

LCP Consistency Analysis

The LCP policies above generally require that that maximum amount of agricultural land be maintained. The LCP also establishes criteria that must be met for a supplemental use to be allowed on agricultural lands, including economic studies of existing and potential agriculture that show that continued or renewed agricultural use is not feasible without the proposed supplemental use (Agricultural Policy 3 and Ordinance 23.05.050). In this case, assuming that the B&B use was allowable, it also must be determined that continued avocado farming operations are not economically feasible without the supplemental Bed and Breakfast use.

The recent County action allows the conversion of a single-family residence to a B&B. There is, however, no evidence in the record to demonstrate that the newly created, supplemental non-agricultural use is *economically necessary* to support Agricultural use on the site and therefore the County action raises a substantial issue regarding consistency with Section 23.05.050b(6)(iii) of the Certified LCP.

Furthermore, Section 23.04.050b(7) requires that an Agricultural Easement be dedicated to assure the protection of remaining agricultural lands. It should be noted that re-classification of the existing single-family residence to a B&B has the potential to create future losses of viable agricultural lands. As stated by Deputy Agricultural Commissioner, Robert Hopkins in a letter dated August 22, 2000 relating to this project "The conversion of the single family residence to a bed and breakfast provides the opportunity for the construction of another residence. Theoretically the construction of another residence could displace significant acreage of prime or productive soils." Given this information, securing viable agricultural lands through an Agricultural Easement becomes extremely important in furthering the LCP's goal of retaining and protecting viable agricultural lands for the future. Again, there is no evidence in the Final Local Action that such an easement has been established. Therefore, a substantial issue exists with regard to Section 23.04.050(7).

As noted in the previous finding, on the one hand, the approved project fails to meet the required policies and standards for allowing a B&B at the site. On the other hand, the supplemental use of a B&B may help keep viable farming operations in business at a time when they are under increasing economic pressure. While the County approval makes some attempts to achieve this latter objective, the project has not been found to be economically necessary. **Thus, the Commission concludes that a substantial issue is raised by the Agriculture contentions.**

